

Department of the Army, DoD

§ 519.67

(3) Have a substantial and direct impact on the public or any significant portion of the public; and

(4) Do not merely implement a rule already adopted by a higher element within the Department of the Army or by the Department of Defense.

(b) Subject to the policy in paragraph (a) of this section and unless otherwise required by law, the requirement to invite advance public comment on proposed rules does not apply to those rules or portions thereof which:

(1) Do not come within the purview of paragraph (a) of this section; or

(2) Involve any matter pertaining to a military or foreign affairs function of the United States which has been determined under the criteria of an Executive Order or statute to require a security classification in the interests of national defense or foreign policy; or

(3) Involve any matter relating to Department of the Army management, personnel, or public contracts, e.g., Armed Services Procurement Regulation, including nonappropriated fund contracts; or

(4) Constitute interpretative rules, general statements of policy or rules of organization, procedure or practice; or

(5) The proponent of the rule determines for good cause that inviting public comment would be impracticable, unnecessary, or contrary to the public interest. This provision will not be utilized as a convenience to avoid the delays inherent in obtaining and evaluating prior public comment. See also § 519.69.

§ 519.65 Procedure when proposing rules.

(a) A proposed rule to which this section applies will be published along with a preamble, in the Proposed Rules Section of the FEDERAL REGISTER. Public comment will be invited within a designated time, at least 30 days prior to the intended adoption of the proposed rule.

(b) The proposed rule and preamble will be prepared for publication by the proponent of the rule. Preparation will be in accordance with guidance contained in Federal Register Handbook on Document Drafting.

(c) Rulemaking proponents will submit the original and three copies of the

proposed rules and preamble, in the proper format, to HQDA (DAAG-AMR-R), WASH DC 20314. The Adjutant General will prepare the required certification and submit the documents to the Office of the Federal Register for publication as a notice of proposed rulemaking.

§ 519.66 Consideration of public comment.

(a) Following publication of a notice of proposed rulemaking, all interested persons will be given an opportunity to participate in the rulemaking through the submission of written data, views and arguments to the proponent of the proposed rulemaking concerned.

(b) If the proponent of the rule determines that it is in the public interest, a hearing or other opportunity for oral presentation of view may be allowed as a means of facilitating public comment. Informal consultation by telephone or otherwise may also be utilized to facilitate presentation of oral comments by interested persons. All hearings or other oral presentations will be conducted by the proponent of the rule in a manner prescribed by him. A hearing file shall be established for each hearing. The hearing file shall include any public notices issued, the request for the hearing, any data or material submitted in justification thereof, materials submitted in opposition to the proposed action, the hearing transcript, and any other material as may be relevant or pertinent to the subject matter of the hearing.

(c) There is no requirement to respond either orally or in writing, individually to any person who submits comments with respect to a proposed rule. The proponent of the rule, however, may do so as a matter within his discretion.

§ 519.67 Procedure when publishing adopted rules.

(a) After careful consideration of all relevant material submitted, the proponent of the rule will make such revisions in the proposed rule as appear necessary in light of the comments received.

(b) The proponent will also prepare a preamble for publication with the

adopted rule. The proponent shall discuss in the preamble the comments received in response to the proposed rule and the decision to accept or reject the comments in revisions to the proposed rule. Preparation will be in accordance with guidance contained in the Federal Register Handbook on Document Drafting.

(c) The original and three copies of the preamble and revised rule will be forwarded to HQDA (DAAG-AMR-R), WASH DC 20314 in the proper format. The Adjutant General will then prepare the required certification and submit the documents to the Office of the Federal Register for publication in the form of an adopted rule.

§ 519.68 Submission of petitions.

Each proponent of a rule will grant to any interested person the right to submit a written petition calling for the issuance, amendment, or repeal of any rule to which §§ 519.64 through 519.67 applies or would apply if issued, as specified in § 519.64. Any such petition will be given full and prompt consideration by the proponent. If compatible with the orderly conduct of public business, the appropriate official may, at his discretion, allow the petitioner to appear in person for the purpose of supporting this petition. After consideration of all relevant matters by the proponent, the petitioner will be advised in writing by the proponent of the disposition of any petition, together with the reasons supporting that disposition. This provision does not apply to comments submitted on proposed rules in § 519.66.

§ 519.69 Cases in which public comment is impractical.

(a) Whenever a rulemaking proponent determines for good cause that inviting public comment regarding a proposed rule would be impractical, unnecessary, or contrary to the public interest, he will prepare a brief statement of the reasons supporting this determination for incorporation in the preamble to the adopted rule. The preamble and adopted rule will then be published in the form outlined in § 519.67 (b) and (c).

(b) Alternatively, the proponent may request The Adjutant General (DAAG-AMR-R) (by letter or disposition form,

as appropriate) to adopt and publish in the FEDERAL REGISTER a separate rule exempting from the prepublication notice provisions of this regulation those specific categories of rules which the rulemaking proponent has determined that public comment would be unnecessary, impractical, or contrary to the public interest. The request to The Adjutant General will contain an explanation of the reasons why the proponent believes that a particular category of rule or rules should not be published in proposed form for public comment. If The Adjutant General agrees that public comment should not be invited with respect to the cited category, he will adopt and publish a separate rule in the FEDERAL REGISTER exempting such rule or rules from the requirements of this regulation. This separate rule will include an explanation of the basis for exempting each particular category from the provisions of this regulation.

**PART 525—ENTRY AUTHORIZATION
REGULATION FOR KWAJALEIN
MISSILE RANGE**

Sec.

- 525.1 General.
- 525.2 Background and authority.
- 525.3 Criteria.
- 525.4 Entry authorization (policy).
- 525.5 Entry authorization (procedure).

AUTHORITY: 44 U.S.C. 1681, 50 U.S.C. 797, 18 U.S.C. 1001, and E.O. 11021.

SOURCE: 48 FR 34028, July 27, 1983, unless otherwise noted.

§ 525.1 General.

(a) *Purpose.* This regulation prescribes policies and procedures governing entry of persons, ships, and aircraft into the Kwajalein Missile Range (KMR), Kwajalein Atoll, Marshall Islands.

(b) *Scope.* (1) This regulation is applicable to all persons, ships and aircraft desiring entry into KMR.

(2) The entry authorizations issued under this authority are limited to KMR and do not apply to entry to any other areas of the Marshall Islands.

(3) In addition to the controls covered by this regulation movement within the Kwajalein Missile Range, the territorial sea thereof and airspace